

Remarks

THE AMENDMENTS

Applicants have canceled claims 6, 8-10, 13-15 and 25-27 without prejudice and without waiver of their right to file for and obtain claims directed to any non-elected subject matter in divisional and continuing applications which claim priority from this application.

Applicants have amended claim 1 (and claims dependent thereon) to exclude subject matter allowed in the related applications from which this application claims priority. Specifically, applicants have amended variable A in claim 1 to recite $-R^1-C_1-C_6$ alkyl, which may be optionally substituted with one or more groups selected from the group consisting of hydroxy, C_1-C_4 alkoxy and variable Ar to recite phenyl and 3-6 membered carbocyclic ring wherein said carbocyclic ring may be saturated or unsaturated and optionally substituted with one or more groups selected from the group consisting of oxo, $-OR^2$, $-R^2$, $-N(R^2)(R^2)$, $-N(R^2)-C(O)-R^2$, $-C_1-C_3$ alkyl substituted with $-OH$ and optionally substituted with Ar, $-CN$, $-CO_2R^2$, $-C(O)-N(R^2)(R^2)$, halo and $-CF_3$.

Applicants have also amended the definitions of R^2 and Ar in claim 1 to clarify the intended scope of these variables. Applicants have amended the definition of Ar to replace " R^2 -OH" with " C_1 - C_3 alkyl substituted with -OH and optionally substituted with Ar". This amendment is necessary because the definition of " R^2 " comprises -H, which would produce the chemically infeasible structure -H-OH. In addition, applicants have added a proviso in the definition of " R^2 " that "when R^2 is C_1 - C_3 alkyl substituted with Ar, said Ar may not be substituted with an Ar-containing moiety." This amendment excludes from the scope of the claims multimers which could occur when R^2 -containing moieties are substituted with Ar ("each R^2 is ... optionally substituted with Ar") which, in turn could be substituted with an R^2 -containing moiety ("wherein Ar is optionally substituted with ... -OR², -R², -N(R²)(R²), -N(R²)-C(O)-R²..."). Such multimers are not intended to be part of applicants' invention.

Applicants have amended claim 5 to delete inadvertent typographical errors in the definition of D. The proviso that "when D is attached to N, D may not be

methyl or C₂ alkenyl" has been deleted because D is not attached to N in any of the exemplified compounds.

Applicant have amended claim 7 to correct an inadvertent typographical error.

Applicants have amended claims 16, 18 and 20 to cancel the recite proper claim dependency.

None of the above amendments adds new matter.

THE RESTRICTION REQUIREMENT

The Examiner has required restriction of the calins into the following fifteen groups:

Group I: Claims 1-12 (in part) drawn to compounds of claim 1 where A is H, classified in various classes and subclasses, depending upon a single elected disclosed species.

Group II: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is cycloalkyl, classified in various classes, depending upon a single elected disclosed species.

Group III: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is

cycloalkenyl, classified in various classes, depending upon a single elected disclosed species.

Group IV: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is aryl, classified in various classes, depending upon a single elected disclosed species.

Group V: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is a 5-7 membered ring with only N as heteroatoms, classified in various classes, depending upon a single elected disclosed species.

Group VI: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is a 5-7 membered ring with only O/S as heteroatoms, classified in various classes, depending upon a single elected disclosed species.

Group VII: Claims 1-12 (in part) drawn to compounds of claim 1 where A is het or R1-het and het is a 5-7 membered ring with both N and O/S as heteroatoms, classified in various classes, depending upon a single elected disclosed species.

Group VIII: Claims 1-12 (in part) drawn to compounds of claim 1 where A is R1-alkyl, classified in various classes, depending upon a single elected disclosed species.

Group IX: Claims 13-15 drawn to compounds, classified in various classes, depending upon a single elected disclosed species.

Group X: Claims 16-17 drawn to a pharmaceutical composition, limited to one of groups I-IX, classified in class 514, subclass, various, depending upon a single disclosed elected species.

Group XI: Claims 18-19, drawn to a method of treating a viral infection, limited to one of groups I-X, classified in class 514, subclass various, depending upon a single disclosed elected species.

Group XII: Claims 20-21, drawn to a method of inhibiting enzymatic activity, limited to one of groups I-X, classified in class 514, subclass various, depending upon a single disclosed elected species.

Group XIII: Claims 22 and 24 (in part), drawn to a method of preventing HIV infection, limited to one

of groups I-X, classified in class 514, subclass various, depending upon a single disclosed elected species.

Group XIV: Claims 22 and 24 (in part), drawn to a method of treating HIV infection, limited to one of groups I-X, classified in class 514, subclass various, depending upon a single disclosed elected species.

Group XV: Claims 25-27, drawn to a method of identifying compounds, classified in various classes and subclasses, depending upon a single disclosed elected species.

The Examiner states that the inventions of Groups I-XV are distinct from each other and have acquired a separate status in the art because of their recognized divergent subject matter. Applicants traverse this restriction on the basis of the procedures set forth in the Manual of Patent Examining Procedure ("MPEP").

The MPEP states that there are two criteria for a proper requirement of restriction between patentably distinct inventions. The inventions must be independent or distinct as claimed and there must be a serious burden on the Examiner if restriction is not required. The MPEP further states that "[i]f the search and examination of

an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803. Applicants respectfully request that the Examiner reconsider her restriction requirement in view of these criteria of this MPEP procedural rule.

A search for the compounds of any one of Groups I-IX, compositions of Group X and methods of any one of Groups XI-XIV could be also carried out simultaneously. A search for a compound of the Group VIII invention would reveal any art for compositions comprising the compound and methods using those compounds and compositions. Thus, there would be no serious search burden on the Examiner if restriction is not required.

Applicants therefore respectfully request that the Examiner consider Groups VIII and X-XIV together. If the Examiner does not agree with this proposal, pursuant to 37 C.F.R. § 1.143, applicants provisionally elect with traverse the claims of Group VIII (claims 1-12 in part) for initial substantive examination. This election is made expressly without waiver of their rights to file

Appl'n No. 10/786,997
Amendment and Reply dated 12/21/04
Reply to Office Action of 9/22/04

for and obtain claims directed to the unelected subject matter in either this application or in divisional or continuing applications claiming priority and benefit from this application under 35 U.S.C. § 120.

Should the Examiner feel that a telephone conference with applicants' representatives would assist the Examiner, she is invited to telephone the undersigned at anytime. Applicants request favorable consideration of the application and early allowance of the pending claims.

Respectfully submitted,



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